

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

ANGEL DAVID MORALES VALLELLANES,  
Plaintiff,

v.

JOHN POTTER, UNITED STATES  
POSTMASTER GENERAL, ET ALS.,  
Defendants.

CIVIL NO. 97-2459 (GAG)(CVR)

DAMAGES BASED ON RETALIATION  
AND DISCRIMINATION; PROHIBITED  
PERSONNEL PRACTICES; UNFAIR  
LABOR PRACTICES; BREACH OF  
COLLECTIVE BARGAINING  
AGREEMENT

TRIAL BY JURY IS HEREBY  
REQUESTED

MOTION TO VACATE ORDER

COMES NOW, plaintiff Angel David Morales-Vallellanes through his legal counsel and very respectfully submits his Motion to Vacate Order (Docket 382):

1. Defendant never paid any attendance fee to Plaintiff's Postal Service witnesses when Defendant took depositions to Plaintiff's witnesses last year. This is also required in 28 U.S.C. § 1821. This means that Defendant is well aware that the US Postal Service pays such fees according to their own internal regulations. The 28 U.S.C. § 1821 (a)(1) says that: "*a witness in attendance at any court of the United States, or before a United States Magistrate Judge, or before any person authorized to take his **deposition*** (emphasis added) *pursuant to any rule or order of a court of the United States, shall be paid the fees and allowances provided by this section*" (emphasis added). However, Defendant never paid said fees and now, all of a sudden, Defendant raise this new issue and is trying to apply this regulation **only** to Plaintiff.
2. The denial of this Honorable Court of Plaintiff's Informative Motion (docket 378), has the effect to apply an unjust monetary burden only to Plaintiff and a double compensation to Postal Service employees while relieving Defendant the payment of said fees. It has been Plaintiff position that the US Postal Service cover said fees to both parties as it is shown in the US Postal Service Employee Labor Relation Manual.

**WHEREFORE**, it is respectfully requested from this Honorable Court to vacate order (Docket 382) and to order Defendant (US Postal Service) to cover the court fees required in 28 U.S.C. § 1821 as their own internal regulations provide for Postal employees who are subpoenaed in Official Duty Status.

**RESPECTFULLY SUBMITTED.**

**I HEREBY CERTIFY** that on September 21, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: **Fidel A. Sevillano-Del Río, Esq.**, Assistant U.S. Attorney, Federico Degetau Federal Build., 150 Carlos Chardón Av., Hato Rey, Puerto Rico 00918.

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